IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6512 OF 2002

Office Notes, Office Memoranda of : coram, appearances, Court's Orders: or directions and Registrar Orders:	Court's or Judge's orders

Mr.K.K. Malpathak with Mr.V.N. Bohujkar for the Petitioner.

None for the Respondents.

CORAM : H.L. GOKHALE &
MRS. R.S. DALVI, JJ.

DATE : 25TH JULY 2005

P.C. :

1. Heard Mr.Malpathak in support of this petition.

2. The petitioner was selected as an Assistant Teacher to work in a primary school of Zilla Parishad, Sindhudurg. He joined there some time in December 1992. The terms of his appointment amongst other clearly stated in clause 2 that the appointment was of a temporary nature and in clause 8 that he had to pass D.Ed. examination within 5 years thereafter.

3. It so transpired that on 10th June 1996, he was arrested on the charges under sections 363, 366, 376 and 109 read

with section 34 of IPC. The case involved kidnapping of a minor girl of the age of 13 and thereafter misbehaving with her leading to the aforesaid charges. The petitioner was in custody for a period of more than 6 months. Subsequently, the parents of the girl appear to have given in writing that they did not want the matter to be prosecuted further from the point of view of the future of the girl and which led to the acquittal of the petitioner.

4. The petitioner was terminated from his services by an order dated 22nd December 1998. That led to his filing an appeal to the Additional Commissioner, Konkan Division. The Commissioner referred to all these facts and considering that the allegation against him was a serious one, although not exactly proved in the criminal court, still held that the order of termination could not be faulted. The Commissioner referred to condition No.2 of the terms of appointment which stated that the petitioner’s appointment was a temporary one.

5. Mr.Malpathak, learned counsel for the petitioner, submitted that the petitioner had been acquitted and merely because he was involved in an incident leading to the prosecution under sections 363, 376 of IPC amongst others, he should not be made to suffer. He also pressed into service the fact that the petitioner belongs to a Scheduled Tribe.

6. We have considered the above submissions, yet considering the seriousness of the allegations against the petitioner, if the authorities deemed it fit to discontinue his services and relied upon condition No.2 which states that his employment was of a temporary nature, we do not think that we can find any fault with their decision. It is also material to note that the petitioner has not passed his D.Ed examination so far though it was stated that he has completed the course. He has however not taken that examination as yet which he was to pass within 5 years from the date of his employment. Petition is dismissed.

(H.L. GOKHALE, J.)

(MRS. R.S. DALVI, J.)